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James Molinaro

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

<hr/> <p>JAMES MOLINARO,</p> <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">v.</p> <p>NATIONAL CONSUMER TELECOM & UTILITIES EXCHANGE, INC,</p> <p style="text-align: center;">Defendant.</p> <hr/>	<p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p>	<p>Civil Action No.:</p> <p>COMPLAINT FOR DAMAGES PURSUANT TO THE FAIR CREDIT REPORTING ACT, 15 U.S.C. § 1681, ET SEQ.</p> <p>JURY TRIAL DEMANDED</p>
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INTRODUCTION

1. The United States Congress has found the banking system is dependent upon fair and accurate credit reporting. Inaccurate credit reports directly impair the efficiency of the banking system, and unfair credit reporting methods undermine the public confidence, which is essential to the continued functioning of the banking system. Congress enacted the Fair Credit

1 Reporting Act, 15 U.S.C. § 1681 *et seq.* (“FCRA”), to ensure fair and accurate
2 reporting, promote efficiency in the banking system, and protect consumer
3 privacy. The FCRA seeks to ensure consumer reporting agencies exercise
4 their grave responsibilities with fairness, impartiality, and a respect for the
5 consumer’s right to privacy because consumer reporting agencies have
6 assumed such a vital role in assembling and evaluating consumer credit and
7 other information on consumers. The FCRA also imposes duties on the
8 sources that provide credit information to credit reporting agencies, called
9 “furnishers.”
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13 2. Through a tightly wound set of procedural protections, the FCRA protects
14 consumers from the material risk of harms that otherwise flow from inaccurate
15 reporting. Thus, through the FCRA, Congress struck a balance between the
16 credit industry’s desire to base credit decisions on accurate information, and
17 consumers’ substantive right to protection from damage to reputation, shame,
18 mortification, and the emotional distress that naturally follows from
19 inaccurate reporting of a consumer’s fidelity to his or her financial
20 obligations.
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24 3. James Molinaro (“Plaintiff”), by Plaintiff’s attorneys, brings this action
25 against National Consumer Telecom & Utilities Exchange, Inc (“NCTUE”
26 or “Defendant”) for violations of the FCRA, as set forth below.
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JURISDICTION AND VENUE

- 1
- 2 4. This Court has federal question jurisdiction because this case arises out of
- 3 violations of the FCRA. 15 U.S.C. § 1681 *et seq.*; 28 U.S.C. § 1331; *Smith v.*
- 4 *Community Lending, Inc.*, 773 F.Supp.2d 941, 946 (D. Nev. 2011).
- 5
- 6 5. Venue is proper in the United States District Court for the District of Nevada
- 7 pursuant to 28 U.S.C. § 1391(b) because Plaintiff is a resident of Clark
- 8 County, Nevada and because Defendant is subject to personal jurisdiction in
- 9 Clark County, Nevada; conducts business in Clark County, Nevada; the
- 10 events giving rise to this action occurred in Clark County, Nevada; and
- 11 Defendant is registered with the Nevada Secretary of State as a foreign limited
- 12 liability company and has appointed a registered agent in Nevada.
- 13
- 14
- 15

PARTIES

- 16
- 17 6. Plaintiff is a natural person residing in the County of Clark, State of Nevada. In
- 18 addition, Plaintiff is a “consumer” as that term is defined by 15 U.S.C. §
- 19 1681a(c).
- 20
- 21 7. NCTUE regularly assembles and/or evaluates consumer credit information for
- 22 the purpose of furnishing consumer credit reports to third parties, and uses
- 23 interstate commerce to prepare and/or furnish the reports. NCTUE is a
- 24 “consumer reporting agency” as that term is defined by 15 U.S.C. § 1681a(f),
- 25 doing business with its principal place of business in Georgia.
- 26
- 27
- 28

1 8. Unless otherwise indicated, the use of Defendant's name in this Complaint
2 includes all agents, employees, officers, members, directors, heirs, successors,
3 assigns, principals, trustees, sureties, subrogees, representatives, and insurers
4 of Defendant.
5

6 **NCTUE Failed to Respond to Plaintiff's Written Dispute**
7

8 9. In an NCTUE credit report dated July 10, 2021, NCTUE reported inaccurate
9 information regarding Plaintiff's credit history. Specifically, NCTUE
10 reported a balance of \$652.88 on an AT&T account plaintiff had discharged
11 in bankruptcy.
12

13 10. On or about August 27, 2021, pursuant to 15 U.S.C. § 1681i(a)(2), Plaintiff
14 disputed NCTUE's reported information regarding misreported trade lines by
15 notifying NCTUE, in writing, of the incorrect and inaccurate credit
16 information reported by NCTUE.
17

18 11. Specifically, Plaintiff mailed a written dispute, first class US Mail, to NCTUE
19 ("Dispute Letter"), requesting disputed inaccurate and incorrect derogatory
20 information be removed, corrected, or deleted.
21

22 12. NCTUE was required to conduct an investigation into the disputed account
23 pursuant to 15 U.S.C. § 1681i.
24

25 13. NCTUE thereafter failed to comply with its obligation to provide Plaintiff
26 with the results of any "reinvestigation" completed pursuant to 15 U.S.C. §
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28

1 1681i(a)(6) relating to the Dispute Letter. Indeed, NCTUE simply never
2 responded to the Dispute Letter.

3 14. As a result of NCTUE's failure to provide a consumer disclosure, NCTUE
4 negligently failed in its duties as required by and in violation of 15 U.S.C. §
5 1681i(a)(6).
6

7 15. Further, NCTUE willfully failed in its duties as required by and in violation
8 of 15 U.S.C. § 1681i(a) when NCTUE failed to provide written notice to
9 Plaintiff of the results of a reinvestigation not later than 5 business days after
10 the completion of the reinvestigation (assuming an investigation was
11 completed), by mail or, if authorized by the consumer for that purpose, by
12 other means available to the agency. Indeed, NCTUE failed to provide
13 Plaintiff any evidence of any investigation it conducted into the disputes
14 raised in the Dispute Letter, thereby necessitating Plaintiff send additional
15 demands to correct inaccurate information and shirking NCTUE's duties
16 under the FCRA.
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22 **FIRST CAUSE OF ACTION**
23 **VIOLATION OF THE FAIR CREDIT REPORTING ACT**
24 **15 U.S.C. § 1681 *ET SEQ.* (FCRA)**

25 16. Plaintiff incorporates by reference all the above paragraphs of this Complaint
26 as though fully stated herein.
27
28

- 1 17. Defendant failed to conduct a reasonable investigation as required by 15
2 U.S.C. § 1681i(a), and wrongly verified inaccurate information in connection
3 with Plaintiff's credit reports.
4
- 5 18. Defendant failed to review all relevant information provided by Plaintiff in
6 the Dispute Letter, as required by and in violation of 15 U.S.C. § 1681i(a).
7
- 8 19. Upon receipt of the Dispute Letter, Defendant failed to conduct an
9 investigation with respect to the disputed information as required by 15 U.S.C.
10 § 1681i(a).
11
- 12 20. Despite Plaintiff's efforts to correct Defendant's erroneous and negative
13 reporting in writing, Defendant neglected, refused, or failed to do so.
14
- 15 21. Defendant's failure to provide a reinvestigation correcting its inaccurate and
16 negative reporting in light of its knowledge of the actual error was willful.
17 Plaintiff is, accordingly, eligible for statutory damages.
18
- 19 22. Also as a result of Defendant's failure to provide a reinvestigation correcting
20 its inaccurate and negative reporting, Plaintiff has suffered actual damages,
21 including without limitation fear of credit denials, out-of-pocket expenses in
22 challenging Defendant's wrongful representations, damage to her
23 creditworthiness, and emotional distress.
24
- 25 23. The foregoing acts and omissions constitute numerous and multiple willful,
26 reckless, or negligent violations of the FCRA, including but not limited to
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1 each and every one of the above-cited provisions of the FCRA, 15 U.S.C. §
2 1681.

3 24. As a result of each and every willful violation of the FCRA, Plaintiff is
4 entitled to actual damages as the Court may allow pursuant to 15 U.S.C. §
5 1681n(a)(1); statutory damages pursuant to 15 U.S.C. § 1681n(a)(1); punitive
6 damages as the Court may allow pursuant to 15 U.S.C. § 1681n(a)(2); and
7 reasonable attorney's fees and costs pursuant to 15 U.S.C. § 1681n(a)(3) from
8 Defendant.
9

10 25. As a result of each and every negligent noncompliance of the FCRA, Plaintiff
11 is entitled to actual damages as the Court may allow pursuant to 15 U.S.C. §
12 1681o(a)(1); and reasonable attorney's fees and costs pursuant to 15 U.S.C. §
13 1681o(a)(2) from Defendant.
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17 **PRAYER FOR RELIEF**

18 Plaintiff respectfully requests the Court grant Plaintiff the following relief
19
20 against Defendant:

21
22 **FIRST CAUSE OF ACTION**
23 **VIOLATION OF THE FAIR CREDIT REPORTING ACT**
24 **15 U.S.C. § 1681 ET SEQ. (FCRA)**

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- actual damages pursuant to 15 U.S.C. § 1681n(a)(1);
 - statutory damages pursuant to 15 U.S.C. § 1681n(a)(1);

- punitive damages as the Court may allow pursuant to 15 U.S.C. § 1681n(a)(2);
- costs of litigation and reasonable attorney's fees, pursuant to 15 U.S.C. § 1681n(a)(3), and 15 U.S.C. § 1681(o)(a)(1) against Defendant for each incident of negligent noncompliance of the FCRA; and
- any other relief the Court may deem just and proper.

TRIAL BY JURY

26. Pursuant to the Seventh Amendment to the Constitution of the United States of America, Plaintiff is entitled to, and demands, a trial by jury.

Dated: October 22, 2021

Respectfully submitted,

By /s/ David Krieger, Esq.
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